

**To:** Mike Suplee[msuplee@mt.gov]  
**From:** Laidlaw, Tina  
**Sent:** Tue 2/21/2017 4:52:41 AM  
**Subject:** Regulations

Mike,

I wanted to let you know that I checked our regulations and they do allow for HAC values to be revised both up or down through the reevaluation process. Here is what our Regs say about changes to the HAC. See page 51037.

Let me know if you have any questions.

Tina

As discussed later in this section, states and authorized tribes must reevaluate WQS variances on a regular and predictable schedule. To ensure that a WQS variance reflects the highest attainable condition throughout the WQS variance term, states and authorized tribes must adopt a provision specifying that the applicable interim WQS shall be either the highest attainable condition initially adopted, or a higher attainable condition later identified during any reevaluation. The rule requires such a provision only for WQS variances longer than five years. This provision must be self-implementing so that if any reevaluation yields a more stringent attainable condition, that condition becomes the applicable interim WQS without additional action. Upon permit reissuance, the permitting authority will base the WQBEL on the more stringent interim WQS consistent with the NPDES permit

regulation at Sec. 122.44(d)(vii)(A). Where the reevaluation identifies a condition less stringent than the highest attainable condition, the state or authorized tribe must revise the WQS variance consistent with CWA requirements and obtain EPA approval of the WQS variance before the permitting authority can derive a WQBEL based on that newly identified highest attainable condition.

Underline added.